

Answer by Letter (Klaffenbach)

July 9, 1970

OPINION LETTER NO. 399



Honorable Earl L. Schlef
State Representative
28th District
1672 Maldon Lane
Dellwood, Missouri 63136

Dear Representative Schlef:

This letter is in response to your question concerning the powers of an elected marshal of a fourth class city with respect to the hiring and firing of police personnel and also the question of whether the board of aldermen of a fourth class city may create a police commission for the purpose of overseeing the operations of the police department.

Section 85.620, RSMo 1959, with regard to fourth class cities, states in full:

"The police of the city may be appointed in such numbers, for such times and in such manner as may be prescribed by ordinance. They shall have power to serve and execute all warrants, subpoenas, writs or other process, and to make arrests in the same manner as the marshal. The marshal and policemen shall be conservators of the peace, and shall be active and vigilant in the preservation of good order within the city."

It is clear from the above statute that the manner of appointment of the members of the police force as well as the number of such members is governed by ordinance.

Honorable Earl L. Schlef

The board of aldermen has the power to fix the compensation of all officers and employees of the city by ordinance, Section 79.270, RSMo 1959; and, the board may pass ordinances regulating the manner of removals, Section 79.240, RSMo 1959.

In our Opinion No. 205, dated July 22, 1964, to O'Brien, and similarly in our Opinion No. 299, dated August 31, 1964, to O'Brien, we considered the question of the appointment of a board of police commissioners to supervise the operation of the police department and concluded that the marshal is the chief law enforcement officer of the city and the board of aldermen has no authority to appoint a board of police commissioners to take over the functions of the marshal who is also the chief of police.

We have enclosed copies of the cited opinions.

Very truly yours,

JOHN C. DANFORTH
Attorney General

Enclosures: Op. No. 205,
7-22-64, O'Brien

Op. No. 299,
8-31-64, O'Brien